

REMARKS

The applicants have carefully considered the Office action dated August 27, 2004 and the references it cites. By way of this Response, claims 2-4, 6 and 7 have been amended, claims 1 and 5 have been cancelled without prejudice to their further prosecution, and new claims 9 and 10 have been added. In view of the following, it is respectfully submitted that all pending claims are in condition for allowance and favorable reconsideration is respectfully requested.

As an initial matter, applicant notes that new Figs 1a and 1b are being submitted herewith adding the "Prior Art" legends requested by the Examiner. Thus, the drawing objections have been overcome.

As a second initial matter, applicant notes that certain minor typographical errors have been corrected in the specification.

Turning to the art rejections, the applicant has re-written the objected-to claims in independent form. In particular, objected-to claim 3 has been amended to expressly incorporate the recitations of independent claim 1, and objected-to claim 7 has been amended to expressly incorporate the recitations of independent claim 5. Therefore, as acknowledged in the Office action, claims 2-4 and 6-8 are in condition for allowance.

New independent claim 9 is also allowable. Among other things, independent claim 9 recites "forming a non-etch resistant gap filling layer over a substrate including the gate area and the spacers." The Office action has contended that layer 50 of Prall is a gap filling layer. However, Prall expressly states that layer 50 is an "etch resistant layer 50." (Prall, Col. 6, lines 35-36). Since claim 9 expressly provides that its gap-filling layer is

"non-etch resistant," Prall's "etch resistant layer 50," cannot fairly be construed to teach or suggest a "non-etch resistant gap filling layer."

Accordingly, claim 9 is allowable over Prall.

New independent claim 10 is similarly allowable. Claim 10 recites "a non-etch resistant gap filling layer formed in gaps between the spacers of the gate areas." Clearly, Prall's "etch resistant layer 50," cannot fairly be construed to teach or suggest such a "non-etch resistant gap filling layer." Accordingly, claim 10 is also allowable over Prall.

Before closing, it is noted that re-writing dependent claims 3 and 7 in independent form to expressly recite the limitations of their base claims, does not narrow the scope of claims 3 and/or 7 in any degree since the recitations of the base claims were already incorporated into those dependent claims. Therefore, because only narrowing amendments may create prosecution history estoppel, the amendments to claims 3 and 7 do not result in prosecution history estoppel.

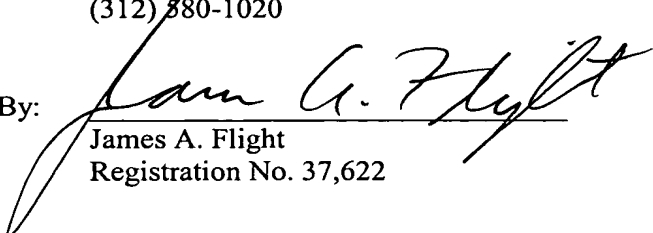
If the Examiner is of the opinion that a telephone conference would expedite the prosecution of this case, the Examiner is invited to contact the undersigned at the number identified below.

Respectfully submitted,

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By:


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Inventors: Park et al.
Title: Memory Cell Structures Including a Gap Filling Layer and Methods of Fabricating the Same
Attorney Docket No.: 20063/10013
Sheet 1 of 3

Fig. 1a (PRIOR ART)

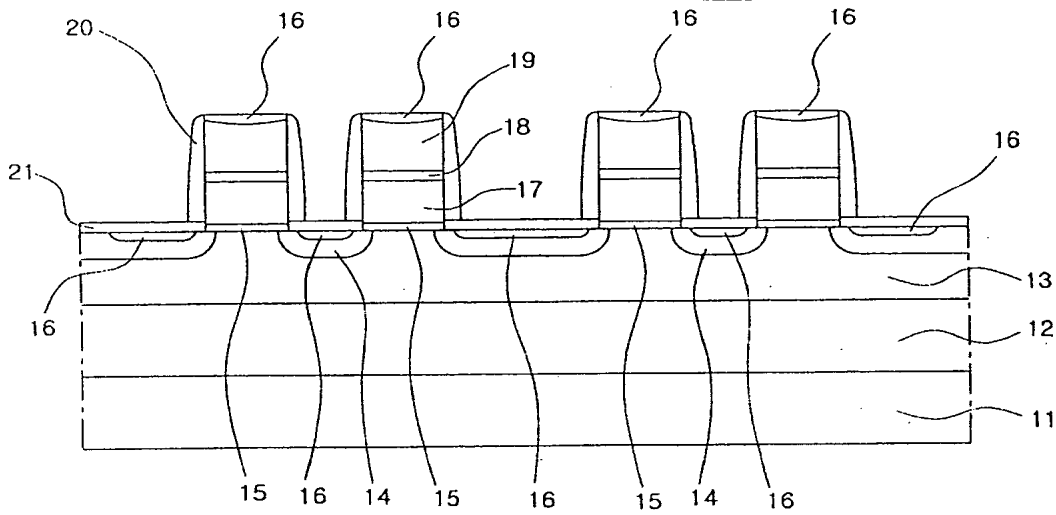
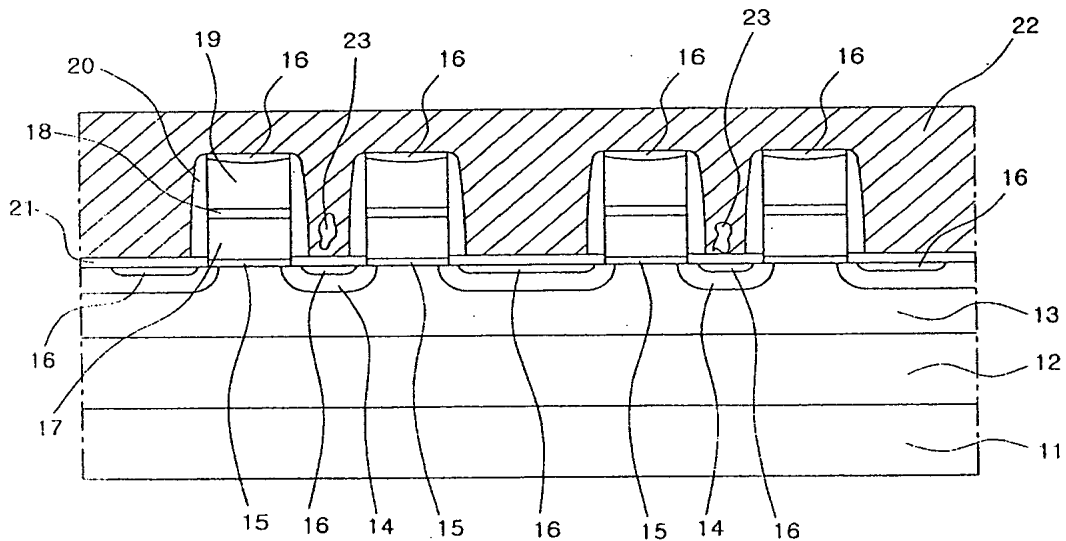


Fig. 1b (PRIOR ART)



In the Drawings:

Please replace Figs. 1a and 1b with the enclosed amended Figs. 1a and 1b. A clean copy of the amended figures and a marked up copy of the same showing the changes in red are enclosed.